

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KARL WILKINS,	)	
	)	Civil Action
Petitioner	)	No. 03-05639
	)	
vs.	)	
	)	
KENNETH KYLER, Superintendent	)	
State Correctional Institution)	)	
Huntingdon,	)	
LYNN ABRAHAM, District Attorney )	)	
for Philadelphia, and	)	
MIKE FISHER, Attorney General of)	)	
Pennsylvania Office of	)	
Attorney General,	)	
	)	
Respondents	)	

O R D E R

NOW, this 2nd day of February, 2007, upon consideration of the Form for Use in Applications for Habeas Corpus Under 28 U.S.C. § 2254 (docket entry number 3), which form was filed on November 25, 2003; it appearing that by Order of the undersigned filed on March 18, 2004 (docket entry number 4), petitioner's action was dismissed without prejudice because he failed to furnish the court with either a completed In Forma Pauperis Application or a check in the amount of five dollars; it further appearing that by Order of the undersigned filed on July 12, 2005 (docket entry number 7), petitioner's action was reopened because he furnished the court with a check in the amount of five dollars; upon consideration of the Response to Petition for Habeas Corpus, which response was filed on October 25, 2005 (docket entry number 11); upon consideration of the Traverse

Reply in Support of Petition for Writ of Habeas Corpus by Person in State Custody Under 28 U.S.C. § 2254, which traverse was filed on December 5, 2005 (docket entry number 14); upon consideration of the Report and Recommendation of United States Magistrate Judge Peter B. Scuderi, which Report and Recommendation was filed on December 28, 2005 (docket entry number 15); upon consideration of the Appeal and Objection to the Report and Recommendation Provided by the Magistrate Judge's Order Dated December 29, 2005 Pursuant to Fed.R.Civ.P. 72 IV, which appeal and objection was filed on January 12, 2006 (docket entry 16); it appearing that petitioner's objections to Magistrate Judge Scuderi's Report and Recommendation are a restatement of issues disposed of by Magistrate Judge Scuderi's Report and Recommendation; it further appearing after de novo review of this matter that Magistrate Judge Scuderi's Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Scuderi's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that petitioner's objections to Magistrate Judge Scuderi's Report and Recommendation are overruled.<sup>1</sup>

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1. When objections are filed to a magistrate judge's report and recommendation, we are required to make a de novo determination of those

(Footnote 1 continued):

IT IS FURTHER ORDERED that the pro se petition for habeas corpus relief is denied and dismissed without a hearing.

IT IS FURTHER ORDERED that because petitioner fails to demonstrate denial of a constitutional right, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ James Knoll Gardner  
James Knoll Gardner  
United States District Judge

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(Continuation of footnote 1):

portions of the report, findings or recommendations made by the magistrate judge to which there are objections. 28 U.S.C. § 636(b)(1); Rule 72.1(IV)(b) of the Rules of Civil Procedure for the United States District Court for the Eastern District of Pennsylvania. Furthermore, district judges have wide latitude regarding how they treat recommendations of the magistrate judge. See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424 (1980). Indeed, by providing for a de novo determination, rather than a de novo hearing, Congress intended to permit a district judge, in the exercise of the court's sound discretion, the option of placing whatever reliance the court chooses to place on the magistrate judge's proposed findings and conclusions. We may accept, reject or modify, in whole or in part any of the findings or recommendations made by the magistrate judge. Raddatz, supra.

As noted above, we conclude that petitioner's objections to Magistrate Judge Scuderi's Report and Recommendation are nothing more than a restatement of some of the underlying claims contained in his petition for habeas corpus. Moreover, on page 17 of petitioner's Kyler's objections, he states that "[a]ll the exhibits and arguments have been presented to the Magistrate Judge Scuderi for consideration that are in this instant motion."

Upon review of the Report and Recommendation, together with de novo review of this matter, we conclude that the Report and Recommendation correctly determines the legal issues raised by petitioner. Accordingly, we approve and adopt Magistrate Judge Scuderi's Report and Recommendation and overrule petitioner's objections to the Report and Recommendation.